

CODE ENFORCEMENT BOARD MINUTES
Wednesday, May 11, 2016 – 2:00 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Kirk Noonan; Vice Chairman, Frank Pizzichillo; Members: Stephen McDonald, Jeff McGann, Christopher Bryant and Alternate Member #1, Eric Price **Also Present:** City Attorney, Wayne Coment; Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Tom Ramsey and Deputy City Clerk, Sherri Philo

Excused Absence: Herbert Whittall

1. CALL TO ORDER

Today's meeting was called to order at 2:00 p.m.

2. PLEDGE OF ALLEGIENCE

The Chairman led the Board members and the audience in the Pledge of Allegiance to the flag.

The Deputy City Clerk swore in staff and all witnesses present for today's meeting en masse.

3. PRELIMINARY MATTERS

A) Adoption of Minutes – April 13, 2016

Mr. Noonan made a motion to adopt the minutes of the April 13, 2016 Code Enforcement Board meeting. Mr. Bryant seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions and Adoption

Mr. Tom Ramsey, Code Enforcement Officer, pulled item 5-B) 1f – Martin VanPutten from today's agenda. He reported that the property is in compliance and the civil penalty has been paid.

Mr. Pizzichillo made a motion to adopt the agenda as amended. The motion was seconded and it passed unanimously.

4. UNLICENSED CONTRACTORS/CITATIONS

None

5. EVIDENTIARY HEARINGS

A) Citation Appeals

None

B) Non-Compliance / Compliance Reports

1. Request for Board Order

- a. CASE #15-CE-6060 / 752M**
VIOLATOR: Venetian Apartments / Kraig Vann Pyle
VIOLATION: Construction without permit
VIOLATION ADDRESS: 2545 Indian River Boulevard,
Vero Beach, Florida 32960
(Case is continued from the February 19, 2016 & April 13, 2016 hearings)

Ms. Melody Sanderson, Code Enforcement Officer, reported that they are moving through the permitting process. She asked the Board to continue this case to the June 8, 2016 meeting.

Mr. Pizzichillo made a motion that the Board continues this case to the June 8, 2016 Code Enforcement Board meeting. Mr. Noonan seconded the motion and it passed unanimously.

- b. CASE #16-CE-2235 / 0910T**
VIOLATOR: Laura L. McCloskey
VIOLATION: Weeds, grass, and overgrowth in excess of 12”
VIOLATION ADDRESS: 1606 24th Avenue, Vero Beach,
Florida 32960
(Case was heard on April 13, 2016 and Board issued order to correct by May 6, 2016)

Mr. Tom Ramsey, Code Enforcement Officer, reported that he still has not been able to contact the property owner. He asked that the Board find the violation continues to exist and to issue a Board order to correct and to remit payment within 30 days.

Mr. Wayne Coment, City Attorney, noted that the Board issued a Board order to correct at the May hearing. He did not know that the Board needed to take any other action.

- c. CASE #16-CE-6457 / 824M**
VIOLATOR: Maxwell Properties, Inc. / James R. Maxwell
VIOLATION: New and existing businesses on-site require site plan approval for repair, rental and storage of vehicles
VIOLATION ADDRESS: 1146 21st Street, Vero Beach,
Florida 32960
(Case continued from the April 13, 2016 hearing)

Ms. Sanderson reported that an inspection was done on May 3, 2016. She said the property owner, Mr. James R. Maxwell, has been making huge efforts in cleaning up the property. She reported that there is an auto sale and U-haul business that still needs site plan approval, as well as a change of use that needs to be completed for the church and U-haul business on

site. She requested that the Board continues this case to the June 8, 2016 Code Enforcement Board meeting and that the applications for change of use be submitted by the Friday, June 3, 2016 (Friday prior to the Code Enforcement Board meeting)

Mr. Pizzichillo made a motion that the Board continues the case with the proviso that the necessary paperwork be turned in by Friday, June 3, 2016. Mr. Bryant seconded the motion and it passed unanimously.

d. CASE #16-CE-6407 / 0909T

VIOLATOR: Bank of America

VIOLATION: Weeds, grass, or undergrowth at a height of more than 12 inches; garbage, rubbish, trash, debris strewn about property; unsecure home with signs of vagrancy

VIOLATION ADDRESS: 905 Coquina Lane, Vero Beach, Florida 32963

Mr. Ramsey reported that the property was found in compliance as of May 2, 2016 and the civil penalties have not been paid.

Ms. Helen Kennedy, Listing Agent for the property, said that she was present today to request that the Board go easy on them with the civil penalties.

Mr. Ramsey asked Mr. Coment if a realtor could request a reduction in civil penalties on behalf of the Bank of America.

Mr. Coment said that he did not have a problem with Ms. Kennedy representing the property owner.

Mr. Pizzichillo asked what is the amount of penalties presently owed.

Ms. Sherri Philo, Deputy City Clerk, reported that the estimated total is \$3,050 dollars.

Mr. Pizzichillo asked when did this process begin.

Mr. Coment reported that the citation was written on February 11, 2016 and the correction date was March 2, 2016.

Ms. Kennedy said this property was assigned to her one year ago by Bank of America as a foreclosure and during her investigation she found that the property was tenant occupied. Shortly thereafter Bank of America withdrew this listing from her inventory. On March 22, 2016 the property was again assigned to her by Bank of America and they determined that the property was vacant on March 26, 2016. When she received the notice of the violations her assistant spoke with Ms. Philo of the City Clerk's office and notified Bank of America on March 30, 2016. She reported that the violations were corrected by April 27, 2016 and the City was notified of the correction by May 2, 2016.

Mr. Pizzichillo asked if he was correct that Bank of America would be responsible for paying the penalties.

Ms. Kennedy answered yes. She said that she might have to pay the penalties and Bank of America would reimburse her.

Mr. Noonan asked if the initial civil penalty was paid.

Mr. Ramsey answered no. He noted that at the last Code Enforcement Board meeting, Bank of America submitted a check for payment of a previous citation for the same property for almost the same amount. He reported that it was his mistake, but this citation should have been written as a repeat violation.

Mr. McDonald said it seems like there are a lot of bank owned properties that come before this Board.

Mr. Ramsey said there are a lot of bank owned properties and they do run afoul of the Codes often.

Mr. Pizzichillo made a motion that the Board finds the violation has been corrected as of May 2, 2016, ceasing the continuing penalties of \$50.00 a day as of May 1, 2016 (the day prior to finding the property in compliance) and to pay all penalties and costs. Mr. McDonald seconded the motion and it passed unanimously.

- e. **CASE #16-CE-6412 / 822M**
VIOLATOR: Matthew Martise
VIOLATION: Demolition done without permit
VIOLATION ADDRESS: 2020 Delmar Avenue, Vero Beach, Florida 32960

Ms. Sanderson reported that the property was in compliance and the civil penalty in the amount of \$50.00 has not been paid.

Mr. Noonan made a motion that the Board issues a Board order to pay the \$50.00 civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.

- f. **CASE #16-CE-6542 / 0952T**
VIOLATOR: Martin VanPutten
VIOLATION: Land clearing without a permit
VIOLATION ADDRESS: 1405 27th Avenue, Vero Beach, Florida 32960
(Paid \$50 civil penalty)

This item was pulled from today's agenda.

- g. **CASE #16-CE-6540 / 0951T**
VIOLATOR: John Pickerill
VIOLATION: Removal of specimen Oak without a permit
VIOLATION ADDRESS: 1513 25th Avenue, Vero Beach, Florida 32960

Mr. Ramsey reported that the civil penalty has not been paid.

Ms. Christy Pickerill reported that they tried to prune and correct the Oak Tree, but it was dying. She said that she works with her father, Mr. John Pickerill, who is a General Contractor and they also own rental properties. She said that she has worked with her father for 19 years and this is the first time they have come before the City Board regarding their rental properties. However, they have gone before the County Board. She said that she did not understand that they needed a permit to remove the tree. She reported that the trunk of the tree is still there and is about 17 feet tall. She said they did end up removing the tree and as soon as they were notified that they needed a permit they obtained an after the fact permit. She said that both she and her father have been in contact with Mr. Ramsey and Mrs. Cheri Fitzgerald of the Planning and Development Department. She had expressed at the very beginning that she did not want to pay the \$250 dollar civil penalty because the tree was dead and hazardous to their tenants. She reported that they received telephone calls from their tenants on more than four (4) occasions and every time they would go and clean up the yard and trim the tree, but the tree continued to die and branches continued to fall. Their tenants had expressed their concern for their children's safety, as well as concern for their vehicles. She said that she was unaware that she had to write the City within so many days. She said that she does all the office work and her father is in the field. Unfortunately, she was at the Mayo Clinic and things that she takes care of fell behind. She reported that on March 29, 2016 her father paid the double fee to receive the after the fact permit and they did plant a new Oak Tree. She noted that they actually planted two (2) Oak Trees because the first tree did not meet the requirements. She felt that they did what they needed to do. She understood that they were supposed to get the permit first, but she didn't know that at the time and as soon as they found out they corrected it. She reported that she didn't get the certified letter until she returned from the Mayo Clinic and went to see Mr. Ramsey to get a copy of the citation. She then showed on the doc cam pictures of the property when the property was purchased, pictures when they put in the landscaping, pictures of the Oak Tree, and pictures of the Oak Tree after they cut it down (on file in the City Clerk's office).

Mr. Ramsey did not think landscaping was relevant to the tree. He agreed with everything that was stated, but the only thing he would add is that she did come in to get a copy of the citation, but there was no request for a hearing. He felt that if they wanted to be heard they should have submitted something in writing, even if it was late.

Ms. Pickerill said that she did express her concern when she first spoke with Mr. Ramsey about wanting to try to abate this penalty. When she called Mr. Ramsey to notify him that she received the notice and that she was interested in coming before the Board to present her case she was told that it might be past the date for her to be able to present her case. She then asked Mr. Ramsey what the timeline was and he told her that he was unsure and did not have the information in front of him. He also stated that she could attend the meeting and the Board may or may not hear her and if the Board declined this that she could be charged extra fines. She said that she wanted to take the chance to be heard today because she felt strongly that they did what was right for the property. She reported that they do have multiple properties in the City and they have maintained all of them.

Mr. Coment clarified that the citation states if they want to have a hearing on the issuance of the citation they have to request in writing with the City Clerk's office a hearing within 10 days from the date of the citation, not including weekends or holidays. He explained that if this is not done then the violation is deemed an admission of the violation. That does not mean that a violator can't attend the hearing and be heard. He said it sounds like they are concerned about the civil penalty, which they can address the Board. It has already been established by default that there was a violation. He said that Ms. Pickerill does have the right to be heard.

Mr. Pierce asked Ms. Pickerill how long she has owned properties in Vero Beach.

Ms. Pickerill said since 1980.

Mr. Pierce asked did they hire someone to cut down the tree or did they do it.

Ms. Pickerill said her guys cut down the tree.

Mr. Pierce asked what was the cost of the new tree.

Mr. John Pickerill said the first tree was less than \$100 dollars, which he purchased before he knew that he needed to replace the tree. After he communicated further with the City he discovered that the tree did not meet the requirements. He then hired a company that had a tree that met the requirements, but he has not received the bill so he doesn't know what it is going to cost him. He asked for clarification on the violation.

Mr. Noonan said that he cut down a tree without a permit.

Mr. Pickerill said the tree was not cut down. There is still 17 feet of the tree on the property. He said that he owned a tree business for about two (2) years and he was licensed by the City. He was trained by a Certified Arborist and he knows how to properly trim an Oak Tree. He said when his tenant called him with concern for the safety of her children he went to the property and cut down the tree limbs. He said that every time he received a telephone call from his tenant he went out and cut off the dead limbs.

Mr. McGann said that he was confused because Ms. Pickerill said the tree was dead and Mr. Pickerill is saying that the tree is not cut down.

Mr. Pickerill said if the tree was alive it would send out shoots. He said that he was not going to do anything with the tree for a while. He said the tree is dead.

Mr. Noonan asked what constitutes cutting down a tree.

Mr. Coment said the allegation is the removal of the tree without a permit. He then read from the Code, *"Removal means the act of removing or causing removal of a tree or Palm from the ground in which it grew or was planted or effectively causing its removal or destruction by damaging the trunk; tipping or other harmful or excessive pruning; damaging or removing major limbs, roots, or canopy volume; changing the natural grade above the root system or around the trunk; damaging the tree or palm such that it permits infection or*

pest infestation; applying any chemical or substance to or near the tree or palm; paving with concrete, asphalt, or other impervious material adjacent to or near the tree or palm; or any other action that causes the tree or palm to be dead or beyond recovery whether or not the tree or palm is physically removed.”

Mr. Ramsey said excessive pruning or trimming is also referred to in the Code as hat-racking. He said there will be shoots that come back, but ultimately it will kill a tree.

Mr. Pizzichillo asked how many people are on staff.

Ms. Pickerill answered four (4).

Mr. Pizzichillo asked wasn't there anyone else who could have followed up on this while she was at the Mayo Clinic.

Mr. Pickerill said that he was trying to work on it. He said that he immediately called the City and the person he spoke with was not helpful. Then he spoke with Mrs. Fitzgerald, who was very helpful and he thought the issue was resolved.

Mr. Ramsey said Mr. Pickerill submitted a tree removal application after the fact that stated that there was a 24-inch tree that was dead or dying on the property.

Mr. Pickerill said that is correct.

Mr. Ramsey said that he was confused because Mr. Pickerill stated that he cut the tree back and it would come back and in the application he stated that the tree was dead or dying.

Mr. Pickerill clarified that what he said was if the tree was alive it would come back. He said this tree is dead.

Mr. McDonald asked Mr. Pickerill if in the time he had the tree business did he have the occasion to take down a tree or severely trim a tree.

Mr. Pickerill answered yes.

Mr. McDonald asked Mr. Pickerill if he applied for a permit to do it.

Mr. Pickerill said that he did not remember getting a permit.

Mr. McDonald said it was obvious that they have spent well over \$200 dollars. He suggested that the Board consider reducing the \$250 dollar civil penalty.

Mr. Pizzichillo felt that the law was broken and there should be some type of penalty. He suggested \$50 dollars.

Mr. Noonan made a motion that the Board reduces the \$250.00 civil penalty to \$50.00. Mr. McGann seconded the motion and it passed unanimously.

6. OLD BUSINESS

None

7. ADMINISTRATIVE MATTERS

None

8. CLERK'S MATTERS

None

9. ATTORNEY'S MATTERS

None

10. CHAIRMAN'S MATTERS

None

11. MEMBER'S MATTERS

None

12. ADJOURNMENT

Today's meeting adjourned at 2:45 p.m.

/sp